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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,621	03/15/2002	Chih-Chiang Chang		2270

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EXAMINER

WONG, ERIC K

ART UNIT PAPER NUMBER

2874

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/099,621

Applicant(s)

CHANG, CHIH-CHIANG

Examiner

Eric Wong

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-13 and 15-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-13 and 15-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1, 10 and 19 have been fully considered but they are not persuasive. Applicant argues that the stationary housing of '878 comprises of two separate halves (10) and (20). Examiner respectfully disagrees with this argument because in the rejection of the claims, only piece (20) is being referenced as the one-piece stationary housing. Likewise, in the current application, parts (10) and (20) are two separate units.

The argument with respect to a U-clip not being obvious due to the fact that it is redundant is respectfully traversed. Redundancy is not a limiting factor and it would not be obvious to remove redundancy in a device.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Art Unit: 2874

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

ADD 3. Claims 1, ⁴6, ¹³10, ¹³15 and 19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 12 of U.S. Patent No. 6,512,878 in view of United States Patent Number 6,293,710 to Lampert et al. and in further view of United States Patent Number 5,245,683 to Belenkiy et al. Although the conflicting claims are not identical, they are not patentably distinct from each other for the following reasons.

Prior claim 12 of '878 fails to claim a plug-type connector terminating the second optical fiber and a coupling sleeve open at two opposite ends and a discrete clip inserted into the stationary housing; otherwise this prior claim includes all of present claims 1, 6, 10, 15 and 19. Furthermore, it is noted that '878 discloses the use of a plug-type connector in column 2, lines 43-44 and in figure 2, part number 10, a coupling sleeve is shown. The person of ordinary skill would thus understand that a plug-type connector is to be used.

Lampert et al. teaches an optical plug-type connector having a one-piece housing and sleeve (Figures 2 and 3) to mate two optical components.

Belenkiy et al. teaches an optical connector which employs the use of a U-clip in order to retain a spring (Column 3, lines 60-62 and Figure 2).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use a connector housing taught by Lampert et al. to mate the optical attenuator of '878 (claim 9) to another fiber or device with minimal optical losses and to use the

Art Unit: 2874

U-clip of Belenkiy et al. in order to properly secure the internal spring to the biasing element used in '878.

As to claims 4 and 13, securing the internal stationary housing to said housing would be inherent.

4. Claims 2 and 11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 12 of U.S. Patent No. 6,512,878 in view of United States Patent Number 5,734,778 to Loughlin et al disclosed by applicant.

'878 (claim 9) discloses a variable optical attenuator assembly with a stationary housing, but fails to explicitly disclose a mounting member attached to the rear and defining an external-threaded portion and bore. It is noted that applicant disclosed this feature on '778 as an adjustment means.

Loughlin et al. discloses an optical variable attenuator connector with a mounting member attached to the rear and defining an external-threaded portion and bore. This allows for adjustment in the optical output and to minimize back-reflections (Abstract, Figure 6, and column 2, line 27).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the mounting member with external threads of '778 in order to tune the optical attenuator of '878 (claim 9) to desired output values and minimize back-reflection.

5. Claims 8 and 17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 5 of U.S. Patent No. 6,512,878. Although the conflicting claims are not identical, they are not patentably distinct from each other because one

Art Unit: 2874

skilled in the art would recognize the "rod" claimed in claim 5 of '878 to be equivalent to a ferrule holder.

6. Claims 3 and 12, 9 and 18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10, and 15 respectively of United States Patent Number 6,512,878. Although claims are slightly different, one skilled in the art would recognize that these claims are equivalent in nature.

7. Claims 7 and 16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of U.S. Patent No. 6,512,878 in view of United States Patent Number 6,652,156 to Shinagawa et al.

'878 (claim 9) discloses an optical attenuator with a connecting member, but fails to explicitly disclose a connecting member with two grooves which engage two holding beams formed at the rear end of a housing.

It is pointed out that it is well known in the art to use grooves to secure components in optical connectors. Furthermore, Shinagawa et al. teaches the use of grooves in figure 4 in order to secure internal components of a connector to prevent optical transmission errors.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use grooves such as the ones used by Shinagawa et al. in order to properly secure the internal components of '878 (claim 9) to prevent optical communication errors.

Conclusion

Art Unit: 2874

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

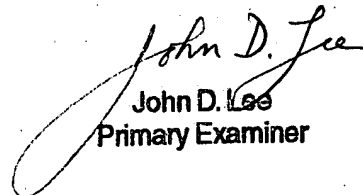
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Wong whose telephone number is 571-272-2363. The examiner can normally be reached on Monday through Friday, 830AM - 430PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on 571-272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2874

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EW


John D. Lee
Primary Examiner